# MONTANA LEGISLATIVE HISTORY

Chapter 526 19 81

Bill H _____ S 210 Original bill & history ✓ C

| H. Committee on Taxation | | | S. Committee on Taxation | | |
|---|---|---|---|---|---|
| Hearing Date(s) | 3/13 | ✓ C | Hearing Date(s) | 2/2 | ✓ C |
| | 3/20 | ✓ C | | 2/11 | ✓ C |
| | 4/2 | ✓ C | Exec. Action | 2/19 | ✓ C |
| Exec. Action | 4/10 | ✓ C | | _____ | C |
| Date Out | _____ | C | | | |

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Law Library does not own Senate Taxation subcommittee minutes.

3RD READING: 4/16 YEAS: 37; NAYS: 60
BILL KILLED ON 3RD READING: 4/16

SB 209 -- MAZUREK -- PROVIDING FOR THE PAYMENT OF COURT JUDGMENTS IN PERIODIC INSTALLMENTS.
INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/20
HEARING: 2/13
REPORT: 2/14, ADVERSE REPORT ADOPTED -- YEAS: 49; NAYS: 0
-- KILLED

SB 210 -- SENATE TAXATION COMMITTEE; CRIPPEN -- AMEND 15-15-101 TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES BEFORE THE STATE TAX APPEAL BOARD...
FISCAL NOTE: REQUIRED
INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION: 1/20
HEARING: 2/2
REPORT: 2/19, DO PASS AS AMENDED
2ND READING: 2/21, DO PASS
3RD READING: 2/24, YEAS: 50

TRANSMITTED TO HOUSE: 2/24
REFERRED TO COMMITTEE ON TAXATION: 3/2
HEARING: 3/13
REPORT: 4/10, BE CONCURRED IN, AS AMENDED
2ND READING: 4/16, YEAS: 79; NAYS: 3
ON MOTION, 4/16, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/16, YEAS: 98; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 4/16
2ND READING: 4/20, BE CONCURRED IN
ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING:4/20, YEAS: 45; NAYS: 3

TRANSMITTED TO GOVERNOR: 4/22/81
ACTION: 4/29, SIGNED
CHAPTER 526

SB 211 -- HAZELBAKER -- AUTHORIZING INSURANCE AGENTS TO EXTEND CREDIT TO POLICYHOLDERS AND ESTABLISHING INTEREST RATES.
INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/20
HEARING: 1/28
REPORT: 1/30, DO PASS AS AMENDED
2ND READING: 2/2, DO PASS
3RD READING: 2/4, YEAS: 48; NAYS: 2

TRANSMITTED TO HOUSE: 2/4
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 2/5
HEARING: 3/9
REPORT: 3/9, BE CONCURRED IN
2ND READING: 3/12, YEAS: 80; NAYS: 4
3RD READING: 3/14, YEAS: 85; NAYS: 8

RETURNED TO SENATE: 3/14

TRANSMITTED TO GOVERNOR: 3/18/81
ACTION: 3/23, SIGNED
CHAPTER 128

SB 212 -- EAGER -- PROVIDING A PROGRAM OF HAZARDOUS WASTE MANAGEMENT

Senate BILL NO. 210

INTRODUCED BY Senate Taxation Committee

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; PROVIDING THAT RELIEF GRANTED IN SUCH A PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS; AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Challenges to assessment rules or procedures. (1) An aggrieved taxpayer may file an original proceeding before the state tax appeal board contesting the validity of a method or procedure of assessment of property adopted or utilized by the department of revenue. Such cases may be brought before the board by a single taxpayer or by a group of taxpayers who are similarly situated.

(2) If the board finds the challenged rule or procedure improper, it may direct that the assessments at issue be adjusted in accordance with its decision.

(3) A decision of the board that such a rule or procedure is improper may direct that assessment changes be made for the taxpayer or taxpayers who brought the action, as well as all taxpayers who are similarly situated.

Section 2. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, with the members to serve staggered terms of 3 years each. The members of each county tax appeal board shall be residents of the county in which they serve. They shall receive compensation of $25 a day and travel expenses as provided for in 2-18-501 through 2-18-503, as amended, only when the county tax appeal board is in session to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation shall be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards shall be furnished by the county. All other incidental expenses shall be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board must meet on the third Monday of April in each year to hear protests concerning assessments made by the department of revenue. It must continue in session for that purpose from time to time until the business of hearing protests is disposed of, but not later than 60 days after the department of revenue or its

agent:

(a) has mailed notice of classification and appraisal to all property owners as required in 15-7-102; and

(b) has notified the county tax appeal board that classification and appraisal notices have been mailed to all property owners.

(3) In connection with any such appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. The county clerk shall publish a notice to taxpayers, giving the time the county tax appeal board will meet to hear protests concerning assessments and the latest date the county tax appeal board may take applications for such hearings. The notice shall be published in a newspaper if any is printed in the county or, if none, then in such manner as the board may direct. The notice shall be published at least 7 days prior to the first meeting of the county tax appeal board.

(4) Challenges to a department of revenue rule governing the assessment of property or to an assessment procedure may be brought only before the state tax appeal board."

Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 15, chapter 2, part 3, and the provisions of Title 15, chapter 2, part 3, apply to section 1.





Section 4. Effective date. This act is effective on passage and approval.

-End-

## STATE OF MONTANA

REQUEST NO. 180-81

## FISCAL NOTE

*Form BD-15*

ompliance with a written request received January 22, 19 81, there is hereby submitted a Fiscal Note
Senate Bill 210 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).
kground information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
e Legislature upon request.

CRIPTION

s proposal would allow taxpayers to challenge the Department of Revenue's assessment
es and procedures before the State Tax Appeals Board. Any relief granted an individual
xpayer by S.T.A.B. would be extended to all other similarly situated taxpayers.

CAL IMPACT:

re will be no direct effect on state revenues; however, the measure could have an
ect upon state programs that rely on the property tax, i.e. the university levy and
ndation programs. These programs, if not adequately funded by the property tax,
ld require additional funds from the General Fund. The impact on local government
venues cannot be estimated but, depending on the breadth of a particular class of
xpayers involved in a challenge, could be significant.

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-26-81

47th LEGISLATIVE SESSION

SENATE BILLS COMMITTEE ON TAXATION

| BILL NO. | ENTERED COMM. | DATE CONSIDERED | OUT OF COMM. | DO NOT PASS DATE | DO NOT PASS DATE | DO PASS AS AMEND. DATE | BE CONCURRED IN DATE | BE CONC. IN AS AMENDED DATE | BE NOT CONCURRED IN DATE |
|---|---|---|---|---|---|---|---|---|---|
| 134 | 1-15-81 | 1-30-81 | | | | 2-14-81 | | | |
| 148 | 1-15-81 | 1-30-81 | | | 2-03-81 | | | | |
| 150 | 1-16-81 | 2-02-81 | | | 3-21-81 | | | | |
| 150 | 3-25-81 | 3-28-81 | | | | 3-28-81 | | | |
| 160 | 1-16-81 | 2-02-81 | | | | 2-14-81 | | | |
| 163 | 1-16-81 | 1-29-81 | | | | 2-14-81 | | | |
| 172 | 1-19-81 | 2-03-81 | | | | 3-19-81 | | | |
| 183 | 1-20-81 | 2-03-81 | | | | 2-20-81 | | | |
| 192 | 1-20-81 | 2-03-81 | | | | 2-20-81 | | | |
| 200 | 1-21-81 | 1-30-81 | | | | 3-25-81 | | | |
| 206 | 1-21-81 | 2-04-81 | Tabled | 3-21-81 | | | | | |
| 207 | 1-21-81 | 2-04-81 | | 2-20-81 | | | | | |
| 208 | 1-21-81 | 2-04-81 | | 2-20-81 | | | | | |
| 210 | 1-21-81 | 2-02-81 | | | | 2-19-81 | | | |
| 213 | 1-21-81 | 1-26-81 | Held in | committee | | | | | |
| 221 | 1-22-81 | 1-28-81 | | | | 3-09-81 | | | |

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 2, 1981

The seventeenth meeting of the committee was called to order by Chairman Pat Goodover at 8:00 a.m. in Room 415 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 150:

"AN ACT AMENDING SECTION 15-31-123, MCA, TO INCREASE THE SMALL BUSINESS INVESTMENT CREDIT TO 100 PERCENT OF THE FEDERAL CREDIT."

Senator Kolstad, District 5, said that this bill would increase small business investment credit to 100 percent of government credit, allowing same credit on the state return as on the federal. He said the bill helped to find ways to help business increase their capital expenditures. Sen. Kolstad introduced Janelle Fallon, Montana Chamber of Commerce, to speak in support of the bill. Her statement is attached as Attachment #1. She read letters from Douglas Wolfe, a Lewistown small businessman, Attachment #2, and from Richard Porte, Caird Engineering Works, Attachment #3. Janelle introduced Ed Nurse, Helena, who handed the committee information he had received while attending a White House conference on small business, Attachments #4 and #5.

PROPONENTS: John Lopach, representing Economic Growth Council of Great Falls, said the bill was a welcome step to improve the business climate in Montana.
Gerry Hudson, Helena Area Chamber of Commerce, Attachment #6.
Ralph Anderson said this bill, if passed, would help his business in the area of obsolete and worn-out equipment.
Don Burnham, rancher in the Helena valley, said that 1) a justification could be made to bankers for a loan with the higher investment credit, and 2) form preparation would be simplified if both returns showed the same amount.
Jack Martins, President and General Manager of Superior Fire Apparatus.
Dave Goss, Billings Area Chamber of Commerce
Roger Tippy, representing small business called Executone
Jim Murphy, controller for Allen Electric, Helena
Dennis Burr, Montana Taxpayers Association, said if corporate profit and corporate tax collections in the state decrease to the level anticipated in the next 3 years, it would be wise to look at legislation that provided a healthy business climate and he believed this bill would help.
Ed McHugh, owner and operator of Clover Leaf Dairy, Helena.
Clark Pyfer, Chairman of the Montana Chamber of Commerce, said he didn't feel the fiscal note figures were correct as projected and wouldn't make the kind of impact on over-all net revenues that is indicated. He said this bill would benefit those corporations that

have 10 or fewer stockholders which limits to small business, sole proprietorships, and small partnerships, and he urged support of the bill.

There were no questions, and the hearing was closed on Senate Bill 150.

CONSIDERATION OF SENATE BILL 160:

"AN ACT TO INCREASE THE INSURANCE EXEMPTION FOR INHERITANCE TAX PURPOSES FROM $50,000 TO $100,000 AND TO CLARIFY THE EXISTING LAW TO SPECIFICALLY LIMIT THE INHERITANCE TAX ON INSURANCE PROCEEDS TO INSTANCES IN WHICH THE INCIDENCE OF OWNERSHIP IS IN THE INSURED; AMENDING SECTION 72-16-304, MCA."

Sen. Mike Anderson, District #40, said this bill needed an amendment. On Page 1, line 16, "incidence" should be "incidences." He explained the proposal is to increase exemptions from $50,000 to $100,000. In 1925 the cost of life insurance was $6.00/thousand and now it is $2.00/thousand.

PROPONENTS:

Senators Towe and Manley from the committee.
Jo Brunner, W.I.F.E., said she would gladly accept the suggested $500,000 exemption and urged passage of the bill.

There were no further proponents and no opponents, so questions were called for.

Tom Stohl, Department of Revenue, said his office does not take a position. He felt the incidence of ownership language is a change he supposes legitimizes what he has been doing for 20 years. He agreed with the language, but was confused as to why relief would be given to so few people.

Sen. Elliott wondered if this bill needed to be enacted if tax on inheritances were eliminated. Sen. Anderson agreed there is a decreasing need for this legislation, but he was not sure the inheritance tax measure would pass. Sen. Anderson thought the committee should keep in mind that this is for Montana tax only.

There were no further questions and the hearing on Senate Bill 160 was closed. It was decided to delay any action on this bill until executive session.

CONSIDERATION OF SENATE TAXATION COMMITTEE BILL 210:

"AN ACT TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; PROVIDING THAT RELIEF GRANTED IN SUCH A PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS; AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Sen. Towe said the bill's purpose is to address handling pers ns in the tax appeal process. The present procedure for appealing tax is appealing valuation and this bill would give taxpayers a way to protest the procedure for determining valuation. Sen. Towe said one way would be to use the same manual for evaluating all properties.

Sen. Hager spoke as a proponent for the bill. He said he had been involved where he appealed property taxes in 1978 and the problem was that the Dept. of Revenue was using Billings to determine cost in his area.

OPPONENTS: Larry Weinberg, Department of Revenue, said they had some problems with SB 210. Calling attention to page 1, line 21, he said the standard for reversing a rule of the DOR is that the procedure be "improper", and he felt no where in the bill is it improper. If DOR chose to take an appeal of STAB's decision there would be a more strict review. He wanted "improper" defined more precisely. Another objection he had was that the measure provides for class-type relief but set out no method for notifying the class. He felt in the assessment area STAB would be permitted to be a rule-making body without being subject to the Administrative Procedures Act. Because there is no requirement to notify DOR, a class taxpayer could initiate a suit at STAB. In effect, at least in the area which the bill addresses, it makes STAB the head of DOR, because DOR makes a rule and they review the rule. He felt caseload would be increased at STAB, and he also thought that the Declaratory Judgment Act would address the problem. He felt one point to bear in mind would be ROC bills 107, 117, and now 210 which challenge refunds on taxes levied by state government. He said we have laws already and now we are proposing new laws.

Helen Peterson, Chairman of STAB, said her board is taking no position, but she had one suggestion that the language is such that it might be possible that action might become retroactive and this would be a county burden. She said, if the bill is passed, it should be limited to current year's taxes with some appeal deadline set.

Sen. Elliott wondered if the rule adopted in 1976 was relative to assessment method. Dennis Burr thought both manuals were part of the rules. Helen Peterson said she could answer specifically that the rule adopted by DOR said Montana appraisal manual was to be used for everything it covered and the national appraisal service for everything else. She said this was an administrative decision by DOR.

Sen. McCallum asked if this bill would help a taxpayer who appealed and was told it depended upon circumstances. The taxpayer must file an individual appeal and having class action would save time, but they weren't sure this bill would help. STAB has 2 1/2 full-time

employees and an attorney on retainer.

In answer to a question of whether this bill would put STAB in control of DOR, Dennis Burr said he didn't think so. He thought a bill allowing the manuals to be argued would speed up the process, the roll-back tax the same way He felt there should be a more streamlined method of challenge and thought it would be better to haul the challenge out of the DOR to have types challenged once rather than 3,200 times.

Sen. Towe asked Helen Peterson if she considered she was covered by APA and had rule-making authority under it. She said APA applies except where there are statutory exceptions. He asked further if she had ever explored under APA that she could use DJA ruling. She said there is one Supreme Court decision which says STAB cannot change DOR ruling, and she didn't think that there are procedures that would allow STAB to change a DOR rule even though they could see one was incorrect.

Sen. Steve Brown said there was a structure originally established that would be changed by this bill. He felt it wasn't intended that STAB would be a legislating body hearing appeals. He felt DOR's concern legitimate but that there were related issues about whether under APA. Sen. Brown suggested asking Cort to see how Senate Bills 117, 107, and 210 relate to each other and whether we have problems with all three of them.

The Chairman announced that any revenue bills affecting either income or expense can be considered until the 70th day in the committee.

DISPOSITION OF SENATE BILL 148: Killed

Sen. Steve Brown moved the bill be given a DO NOT PASS. The motion carried unanimously.

The meeting was adjourned at 9:55 a.m.

Patty Goodover

PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/02/81

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Goodover, Pat M., Chairman | ✓ | | |
| McCallum, George, Vice | ✓ | | |
| Brown, Bob | ✓ | | |
| Brown, Steve | ✓ | | |
| Crippen, Bruce D. | ✓ | | |
| Eck, Dorothy | ✓ | | |
| Elliott, Roger H. | ✓ | | |
| Hager, Tom | ✓ | | |
| Healy, John E. "Jack" | ✓ | | |
| Manley, John E. | ✓ | | |
| Norman, Bill | ✓ | | |
| Ochsner, J. Donald | ✓ | | |
| Severson, Elmer D. | ✓ | | |
| Towe, Thomas E. | ✓ | | |
| | | | |

Each day attach to minutes.

DATE February 2, 1981

COMMITTEE ON TAXATION

VISITORS' REGISTER

| NAME | REPRESENTING | Senate BILLS# | Check One | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | Support | | | Oppose | | |
| | | | 150 | 160 | 210 | 150 | 160 | 210 |
| Janelle Fallan | Montana Chamber | | X | | | | | |
| Ed Nurse | Self-Small Business | | X | | | | | |
| Gerry Hudson | Helena Area Chamber of Comm. | | X | | | | | |
| Betty M Johnson | Billings Area Pancake House | | X | | | | | |
| Dave Goss | Billings Area Chamber of Commerce | | X | | | | | |
| Jim Williams | Williams Const Co | | X | | | | | |
| Helen M. Peterson | State Tax Appeal Board | 210 | | | Email | | | |
| James J Murphy | Allen Electric | | X | | | | | |
| Larry Weinberg | D.O.R. | ~~150~~ | | | | | | X |
| Kegan Lyons | Executive Systems of Mont- | | X | | | | | |
| William Olson | Mont Contractors | 150 | X | | | | | |
| Danny Burr | MONTAX | | X | | X | | | |
| Jo Brunner | W.I.F.E | | | X | | | | |

(Please leave prepared statement with Secretary)

STATE LAW LIBRARY
MAY 7 1981
OF MONTANA

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 11, 1981

The twenty-fourth meeting of the committee was called to order at 8:05 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members were present except Sen. Elliott.

The first order of business was the approval of a committee bill to address the 34% question on property tax appraisals. Sen. McCallum moved that a committee bill be drafted. The vote was unanimous in favor of the motion.

Sen. Goodover announced that members of the committee would get copies of the minutes so that they could be better prepared to handle bills in executive sessions. He said bills that must be considered before the transmittal date are: the committee liquor bill, Senate Bills 7, 12, 53, 134, 160, 163, 183, 207, 208, 231, 260, 279, and 284. He assigned three bills to a sub-committee comprised of Senators McCallum, Eck and Severson. Those bills are Senate bills 17, 107, and 210. SB 53 was also assigned. They were asked to see how these bills correlate.

CONSIDERATION OF HOUSE BILL 250:

> "AN ACT TO GENERALLY REDUCE PERSONAL INCOME TAX LIABILITY AND TO ADJUST THE AMOUNT OF EXEMPTION DEDUCTION BECAUSE OF A STATE BUDGET EXCESS; AMENDING SECTIONS 1, 3, 4, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS OF 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Rep. Nordtvedt said House Bill 250 does two things: 1) increases basic exemption from $800 to $1,000, and 2) liberalizes parameters of the standard deduction from 15% of adjusted gross to 20% of adjusted gross. He used a graph to show purchasing power concerned with the standard deduction, Attachment #1. He said homeowners get a tax break in their tax and interest payments, but single persons do not. Rep. Nordtvedt (referring to the fiscal note) says his figure is 23.8 million on impact--DOR says 28 million. He handed the committee a computation sheet, Attachment #2.

Ellen Feaver commented that the fiscal note was revised for this bill and the revised estimate is more like 25 million dollars for the biennium.

The hearing was closed on House Bill 250.

CONSIDERATION OF SENATE BILL 21:

> "AN ACT TO CREATE THE MONTANA PRODUCT DEVELOPMENT CORPORATION, A PUBLIC CORPORATION TO PROVIDE FINANCIAL AID FOR PRODUCTS AND INVENTIONS."

Sen. Towe said this is the equity capital bill, originally approved by the coal tax oversight committee two years ago. It is introduced be-

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/11/81

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Goodover, Pat M., Chairman | ✓ | | |
| McCallum, George, Vice | ✓ | | |
| Brown, Bob | ✓ | | |
| Brown, Steve | ✓ | | |
| Crippen, Bruce D. | ✓ | | |
| Eck, Dorothy | ✓ | | |
| Elliott, Roger H. | | ✓ | |
| Hager, Tom | ✓ | | |
| Healy, John E. "Jack" | ✓ | | |
| Manley, John E. | ✓ | | |
| Norman, Bill | ✓ | | |
| Ochsner, J. Donald | ✓ | | |
| Severson, Elmer D. | ✓ | | |
| Towe, Thomas E. | ✓ | | |
| | | | |

Each day attach to minutes.

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 19, 1981

The 31st meeting of the committee was called to order at 7:30 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members were present.

The first order of business was executive action on Senate Bill 461. The main problems are how to issue more licenses to areas who need them and still keep value on present licenses. Also, floater language needs clarification.

There was discussion of amendment language. Sen. Norman made a motion that 30% be changed to 33% on page 4, line 10. The motion passed with Sen. Towe dissenting. Sen. Manley made a motion to delete paragraph (c) in its entirety on page 5, line 3. The motion carried with Senators B. Brown and Towe dissenting. Sen. McCallum moved to strike section 2 in its entirety and renumber. The vote was unanimously in favor of this motion. Senator Severson moved the bill be given a DO PASS, as amended. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 361:

"AN ACT TO EXEMPT DOMESTIC INTERNATIONAL SALES CORPORATIONS FROM THE CORPORATE LICENSE TAX; AND TO TAX THE SHAREHOLDERS OF DOMESTIC INTERNATIONAL SALES CORPORATIONS; AMENDING SECTIONS 15-30-111 AND 15-31-102, MCA."

Sen. Lee said the bill allows a corporation doing business in Montana, if they elect to be a DISC, to utilize this on their state corporate income tax. This gives businesses opting to operate in Montana the same footing they would have in other states. At this time the bill would affect very few businesses in the state, but this would be an incentive to entice some businesses to Montana. Bordering Canada would pave the way where warehousing might be possible here. He felt a DISC program would allow them to continue to service their accounts that are already in existence and not be penalized.

PROPONENTS:

Janelle Fallon, Montana Chamber of Commerce; Sen. Goodover, who felt that we have examples of DISC-type industries in the state and removing the tax would allow more competition; Sen. Dorothy Eck who said we ought to start shifting corporation tax from corporations to the shareholders.

There were no opponents, so questions were called from the committee.

DISPOSITION OF SENATE BILL 53:

Sen. Norman moved that SB 53 be given a DO NOT PASS. The vote was in favor of the motion with Senators Elliott and Crippen dissenting.

DISPOSITION OF SENATE BILL 17:

Amendments to SB 17 were approved on the 30th of January, but the subcommittee didn't address Sen. Crippen's concern about payment under protest.

Sen. Towe said he would like to see it made clear that if you do take an appeal to STAB and the appeal is pending when tax time comes the appeal is enough so that you won't have to pay second half taxes. He requested that Cort address that. The question arose about large taxpayers who might protest--say Burlington Northern and Montana Power Company. Dennis Burr felt they would be keeping revenue that would be held by the local governing body earning interest. Cort was asked to draft a simple amendment saying that in the event an appeal of the tax is before STAB at the time of the normal payment date that the tax need not be paid under protest provided once a final decision is made, after all appeals, the tax must be paid with interest as provided.

DISPOSITION OF SENATE BILL 210:

Amendment language was discussed. SB 210 is similar to 107 except the remedy is different. Sen. Towe moved SB 210 be given a DO PASS, as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 6:

Sen. Towe moved that SB 6 be tabled. The motion passed unanimously.

DISPOSITION OF SENATE BILL 20:

Sen. Towe said at the courtesy of the chairman of the committee this bil was not reported out of committee until the committee liquor bill could be drafted. Sen. Towe moved to reconsider action taken on SB 20 on Jan. 27 and subsequent to that motion, moved to table it. The motion carried with Senators Manley and Goodover dissenting.

DISCUSSION OF SENATE BILL 183:

Discussion revealed that there was a problem with application so Sen. Towe and Cort were going to look this bill over today and come up with something tomorrow.

DISPOSITION OF SENATE BILL 107:

A motion was made that SB 107 be given a DO PASS, as amended. The vote was unanimously in favor of the motion.

The meeting adjourned at 10:00 a.m.

Pat M. Goodover

PAT M. GOODOVER, Chairman

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/19/81

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Goodover, Pat M., Chairman | ✓ | | |
| McCallum, George, Vice | ✓ | | |
| Brown, Bob | ✓ | | |
| Brown, Steve | ✓ | | |
| Crippen, Bruce D. | ✓ | | |
| Eck, Dorothy | ✓ | | |
| Elliott, Roger H. | ✓ | | |
| Hager, Tom | ✓ | | |
| Healy, John E. "Jack" | ✓ | | |
| Manley, John E. | ✓ | | |
| Norman, Bill | ✓ | | |
| Ochsner, J. Donald | ✓ | | |
| Severson, Elmer D. | ✓ | | |
| Towe, Thomas E. | ✓ | | |
| | | | |

Each day attach to minutes.

# STANDING COMMITTEE REPORT

February 19 81

19

MR. PRESIDENT:

We, your committee on TAXATION

having had under consideration Senate Bill No. 210

Respectfully report as follows: That Senate Bill No. 210

be amended, as follows:

1. Title, line 5.
Following: "PROCEDURES"
Strike: "BEFORE THE STATE"

2. Amend title, line 6.
Following: line 5
Strike: "TAX APPEAL BOARD"
Insert: "IN THE DISTRICT COURT"

3. Page 1, lines 12 through line 25.
Following: line 11
Strike: lines 12 through 25 in their entirety.

XXXXXX
~~DO PASS~~

(CONTINUED)

PAT M. GOOD ~~NER~~, Chairman.

STATE PUB. CO.
Helena, Mont.

4. Page 2
Strike: line 1
Insert: "NEW SECTION. Section 1. Challenge to assessment rules or procedures. (1) An aggrieved taxpayer may, in lieu of proceeding under Title 15, chapter 15, part 1, bring a declaratory judgment action in the district court seeking a declaration that a method or procedure of assessment of property adopted or utilized by the department of revenue is illegal or improper.

NEW SECTION. Section 2. Procedure. (1) Except as provided in subsection (2), an action pursuant to [section 1] is subject to the provisions of Title 27, chapter 8.

(2) In lieu of the requirement of 27-8-301, a party bringing an action under [section 1] may elect to use:

(a) the procedures available under the Montana Rules of Civil Procedure for bringing a class action, Title 25, chapter 20, rule 23; or

(b) the procedure provided for in subsection (3).

(3)(a) A party bringing an action under [section 1] may elect to give notice as provided in this subsection. A party so electing must publish notice that an action has been brought. The notice must be published at least once each week for 4 consecutive weeks in a newspaper of general circulation published in the county where the action is commenced and in other counties within the jurisdiction of the taxing authority. The notice shall advise each similarly situated taxpayer that:

(i) the court will exclude him from the class if he so requests by a specific date;

(ii) the judgment, whether favorable or not, will include all similarly situated taxpayers who do not request to be excluded; and

(iii) any similarly situated taxpayer who does not request exclusion may, if he desires, enter an appearance.

(b) An election to give notice under this subsection does not prevent any party to the action from serving process on other interested parties.

(4) In a proceeding under [section 1] all issues shall be tried by the court.

NEW SECTION. Section 3. Remedy. (1) If the district court determines that the challenged rule or procedure is improper it may direct:

(a) that the assessment be changed for the taxpayer or taxpayers who brought the action as well as all similarly situated taxpayers; or

(b) such other remedy as the court considers appropriate.

(2) The remedy directed by the district court may apply only to taxes imposed during or after the year the rule or procedure is challenged. The remedy may not apply to the application or implementation of the rule or procedure as it applies to taxes imposed in years prior to the challenge under [section 1].

NEW SECTION. Section 4. Tax to be paid. A tax which is based on the rule or procedure being challenged under [section 1] and which becomes due before the final determination of the validity of the rule or procedure must be paid when due as a condition of continuing the action."

Renumber subsequent sections.

(CONTINUED)

Chairman.

STATE PUB. CO.
Helena, Mont.

5. Page 3, line 20.
Following: "procedure"
Strike: "may be brought only before the state tax appeal"

6. Page 3, line 21.
Following: line 20
Strike: "board"
Insert: "shall apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in [sections 1 through 4]"

7. Page 3, line 22 through line 25.
Following: line 21
Strike: line 22 through 25 in its entirety.

and, as so amended

DO PASS

P. T. H. GOODOVER, Chairman.

STATE PUB. CO.
Helena, Mont.

STATUS SHEET

TAXATION COMMITTEE

47th Legislature SENATE

| Bill No. | Subject Matter | Date In | Sponsor | Hearing Date | Committee Action | Date Out |
|---|---|---|---|---|---|---|
| SB 208 | Authorizing the coal board to consider applications for loans from the local and impact and education trust fund account | March 2 | Towe | March 12 | Be concurred in April 8 4 opposed | |
| SB 210 | Amend 15-15-101 to allow tax payers to challenge the assessment rules and procedure before the state tax appeal board | March 2 | Senate Taxation Committee | March 13 | March 20 tabled as amended Unan Be concurred in as amended April 10 Nordtvedt | |
| SB 231 | Revising alcoholic beverage licensing laws as they relate to corporate license applicants, licensees, and eliminating residency requirements | March 2 | Elliott | March 11 | Be concurred in March 12 Back to comm March 20 Be concurred in March 27 unan | March 27 |
| SB 252 | To establish a new classification of property tax for automobiles and light trucks | April 6 | Goodover | April 7 | | |
| SB 255 | To eliminate certain taxes for lineal descendants | Feb 18 | Turnage | March 17 | Be concurred in Unan | March 17 |
| SB 269 | Revising the methods of payment in eminent domain proceedings. | March 2 | Conover | March 13 | Be concurred in as amended 2 opposed April 10 | |

Form CS-32
1-79

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 13, 1981

A meeting of the House Taxation Committee was held on Friday, March 13, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Vinger, who was absent. SENATE BILLS 17, 107, 269, and 210 were heard and EXECUTIVE ACTION was taken on SENATE BILLS 79, 183, 134 and 231.

The first bill to be heard was SENATE BILL 269, sponsored by Sen. Max Conover. He described the bill, which deals with eminent domain; see written testimony Exhibit "A." He suggested that the language on P. 5 might need amending.

Steve Doherty then testified in support of the bill on behalf of the Northern Plains Resource Council; see Exhibit "B."

Jon Rappe, Northern Tier Pipeline Committee, then testified. They are in favor of the bill because: (1) private land owners are impacted the most by energy development, and this is especially the case with the Northern Tier Pipeline. The private land owner is defenseless against the big pipeline. Regarding how terms and conditions are dictated by pipeline companies, it would be useful to compare what they are offering private land owners and what the federal government is allowing them. With Northern Tier, private land owners are being told that the company wishes to have a 75-foot permanent right-of-way; the payments for the easement will be in lump sum, and the easement is in perpetuity. The federal government is allowing Northern Tier only a 54-foot right-of-way, and is talking about annual payments and also is talking about easement for only 30 years. This illustrates some of the problems land owners are faced with. If the State in granting the power of eminent domain to companies like Northern Tier doesn't continue to take responsibility for how the money is granted, it is time the State starts giving the land owners tools to take care of the situation themselves. Right now, the State isn't doing the protecting of the land.

Mons Teigen, Montana Stockgrowers and the Montana CowBelles, then testified. They think it is about time the land owner gets some tools to assist him in dealing with the eminent domain authority.

Paul Smith, an attorney from Missoula, then rose in support of the bill. Right now, the land owner is at a disadvantage. He felt the situation should be more equitable; this bill will help solve some of the problems.

Beate Galda, an attorney for the Highway Department, then rose as an OPPONENT to SB 269; see written testimony Exhibit "C." The Department of Highways opposes the bill because it is not workable.

John Sullivan, MDU and Mountain Bell, then rose in opposition to the measure. They are opposed to the portion of the bill that would overturn the tradition of paying market value for easements, with the value being derived at the time of the purchase of the easement.

The Committee then went into EXECUTIVE SESSION and SENATE BILL 183 was considered. Rep. Oberg moved that the bill BE CONCURRED IN. He submitted that the rollback tax wasn't workable, regretfully. Rep. Nordtvedt added that the Revenue Oversight Committee addressed this subject but couldn't find a way to make the tax workable. Rep. Neuman wanted to know what the status was of the bill which provided that the person selling the property had to certify that all taxes had been paid. Rep. Bertelsen said he didn't think this would take care of the problem. He pointed out that the rollback tax didn't always show up before the land was sold. The question was called for and the motion carried unanimously. Rep. Bertelsen agreed to carry the bill.

Rep. Williams then moved that SENATE BILL 231 BE CONCURRED IN. Motion carried unanimously. Rep. Williams agreed to carry the bill.

SENATE BILL 279 was then considered. Rep. Switzer said that the wine distributor should pay the tax on his loss just as the gasoline distributor pays the tax on his loss.

Rep. Zabrocki moved that the bill BE NOT CONCURRED IN. Rep. Williams rose in opposition to the motion. He didn't feel the beer wholesalers could be given this provision and not the wine distributors. Rep. Dozier submitted that the wholesaler would worry more about breakage, because the loss would be greater than the amount of the tax.

Rep. Brand wanted to know if there were many people who had both a beer and wine wholesale distributorship. Rep. Nordtvedt felt that most distributors had both.

Rep. Williams made a substitute motion that the bill BE CONCURRED IN. Motion carried with Reps. Brand, Burnett, Underdal, Devlin, and Zabrocki opposed. Rep. Williams agreed to carry the bill.

SENATE BILL 134 was considered. Rep. Underdal moved that it BE CONCURRED IN.

Rep. Nordtvedt asked Ms. Feaver if extensions would be charged interest. She replied that they would be, and the only loss in revenue would be what the State was making on its short-term investment of the funds. Rep. Zabrocki pointed out that the State would have to pay a higher interest rate because of the extension. Ms. Feaver replied that there was a six-month grace period for the State. The question was called for and the motion that the bill BE CONCURRED IN carried unanimously.

SENATE BILL 210 was then heard. The sponsor, Sen. Tom Towe, explained the bill. At present, if a taxpayer wants to appeal their taxes, for whatever reason, the taxes can be appealed and the appeal won on the State level. Only the taxes of the person are adjusted. It is easy for the Department of Revenue to concede the case and pay the people off because the impact is just with the case, and doesn't apply

to all other taxpayers. This bill would consolidate similar appeals.

Dennis Burr, Montana Taxpayers Association, then rose as a PROPONENT. This bill was introduced because of the frustration the Department of Revenue feels over the 34% cases. The Department's problem is that with 3,000 appeals in 56 Counties, it is difficult for them to make the hearings, and present their case. Therefore, the taxpayers as a group have a good shot at picking the cases they want to appeal. This bill would allow one taxpayer to go to Court in representation of all taxpayers. The Department would only have to defend itself once. He felt the bill would be good both for the taxpayers and the Department of Revenue.

Ellen Feaver, Director of the Department of Revenue, then rose in support of the bill.

There were no OPPONENTS to SB 210; questions were then asked. Rep. Neuman wanted to know if SB 210 could provide that someone would be precluded from appealing taxes because a person friendly to the Department had filed an indefensible suit. Sen. Towe pointed out that all cases would have to be consolidated.

Rep. Nordtvedt wanted to know if one court settlement against a taxpayer totally eliminated the ability of another taxpayer to bring a similar case to court. Sen. Towe said the case couldn't be settled until after a notification procedure was conducted which gave the chance for others to intervene; then the one person bringing the lawsuit could settle and the settlement would in effect be binding on everyone else.

Sen. Towe then closed; the hearing on SB 210 was closed.

The Committee went back into EXECUTIVE SESSION; SENATE BILL 208 was considered. Rep. Nordtvedt said he had a problem in that the interest rates weren't specified. He rose in support of leaving the Senate language in the bill.

Mr. Oppedahl, Legislative Council, said the bill needed a codification instruction inserted, which would state that the provisions of Title 90, Chapter 6 applied. It was suggested that a coordination clause might be needed between this bill and another one; Rep. Nordtvedt rose in support of having a coordination clause put in the bill.

Mr. Oppedahl agreed to check up on the status of the other bill; action was deferred on SB 208 until this could be done.

The meeting was adjourned at 10:00 a.m.

Rep. Ken Nordtvedt, Chairman

da

# ROLL CALL

## HOUSE TAXATION COMMITTEE

## 47th LEGISLATIVE SESSION, 1981

| Name | Date 2/18 | 2/19 | 2/20 | 2/23 | 2/24 | 3/3 | 3/4 | 3/5 | 3/6 | 3/9 | 3/10 | 3/11 | 3/12 | 3/13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| NORDTVEDT, KEN-Chm. | ✓ | ✓ | ✓ | Ex. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| SIVERTSEN, BOB-V.C. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ASAY, TOM | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ab Ex. | ✓ | ✓ | ✓ | ✓ | ✓ |
| BERTELSEN, VERNER | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| BRAND, JOE | ab Ex. | Ex. | ✓ | Ex. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| BURNETT, JIM | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| DEVLIN, GERRY | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| DOZIER, BOB | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| HARP, JOHN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Ex. | ✓ |
| HARRINGTON, DAN | ✓ | ✓ | ✓ | ab | ✓ | ✓ | ✓ | ✓ | ✓ | ab | ✓ | ✓ | ✓ | ✓ |
| HART, MARJORIE | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| NEUMAN, TED | ✓ | ✓ | ✓ | ab | ✓ | ab | ab | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| OBERG, DANNY | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ROTH, AUDREY | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| SWITZER, DEAN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| UNDERDAL, MELVIN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| VINGER, ORREN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ab Ex. | Ex. | ab |
| WILLIAMS, MEL | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ZABROCKI, CARL | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL SB 210 Date 3/13/81

SPONSOR Sen. Tax Comm.

| NAME | RESIDENCE | REPRESENTING | SUPPORT | OPP |
|---|---|---|---|---|
| Ellie Shaver | Helena | Dept of Revenue | ✓ | |
| Dennis Burr | Clancy | MONTAX | ✓ | |
| | | | | |
| | | | | |
| | | |

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 20, 1981

A meeting of the House Taxation Committee was held on Friday, March, 20, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present. HOUSE BILL 844 was heard and EXECUTIVE ACTION was taken on SENATE BILLS 107 and 210.

HOUSE BILL 844, sponsored by Rep. Joe Kanduch, was heard. He stated that other persons had wished to co-sponsor the bill, but he had wanted the bill to be known as the "Kanduch Replacement" bill. A Sales Tax Account is created under the bill. The balance of the Account is dedicated exclusively to and solely available for appropriations for funding Teachers Retirement, replacing the inventory tax, Police and Firemens' Retirement, 7 mills of the permissive levy, and replacing General Fund for the equivalent of the surtax income, etc. These funds are earmarked and are replaced. The tax is being distributed evenly among the people and the burden is taken off the low income people.

Keith Anderson, Montana Taxpayers Association, then spoke up in suppc of the bill; see Exhibit "A." He suggested that Section 39 be amended to better spell out the disposition of the funds. For example, Teachers Retirement, Social Security and PERS have increased sharply and the language needs to be clairified to eliminate them from the levy. He pointed out that nationwide, the sales tax meant a 9.1% increase in revenue for some States and even more for others; therefore, it is a stable source of revenue like other sales taxes presently being imposed in Montana.

Jim Murry, Montana State AFL-CIO, then rose in OPPOSITION to the bill; see Exhibit "B."

Joe Lamson, Montana Democratic Party, also rose in opposition to the bill. The Party is totally against a sales tax because it is regressive and hits the person least able to take up the burden.

Jim Jensen, Low Income Senior Citizens Advocacy, rose in opposition to the measure. Testimony that low income people will be subsidized by a sales tax he submitted was not true and never had been. He didn't see why the Montana Taxpayers Association supported the bill, and not other bills which had meaningful impacts on low income people. The bill is also anti-business. Small businessmen and women will be burdened with paperwork that is unfair because bigger businesses can do this on computer. They prefer that Montana lead the other States, and not follow them, in this issue.

Nadiean Jensen, Executive Director, AFSCME, rose in opposition to the bill.

Jerry Driscoll, a labor representative, then spoke. This tax would mean a financial loss for his people even taking into consideration other tax cuts that may be passed by the Legislature.

The meeting was then turned over to Rep. Sivertsen in order that Rep. Nordtvedt could testify against the bill. He was opposed to the bill

might apply. Rep. Nordtvedt said he assumed that if a taxpayer objected to the challenge and wanted to be excluded, the amendment would apply. Rep. Zabrocki pointed out that it might be a public official who didn't want to be attached to the protest.

Rep. Dozier pointed that Line 9, p. 2 might cover amendment No. 2 and Mr. Oppedahl agreed to research this. It was pointed out that the amendment added additional detail to the provision and possibly this wouldn't be necessary. Rep. Nordtvedt recommended that the amendment be eliminated.

Rep. Nordtvedt moved amendments No.1 and 3. Motion carried unanimously.

Rep. Nordtvedt then moved the bill; motion carried unanimously.

SENATE BILL 210 was then considered. Technical amendments were also distributed on the bill: see Exhibit "E." Mr. Oppedahl referred the Committee to Subsection 3 on P. 2. This provides for a notice but no direction to a Court and that is why the amendment was needed. He said that the other bill didn't direct the Court, either.

Rep. Nordtvedt moved the amendments to SB 210; motion carried unanimously.

Ellen Feaver, Director of the Department of Revenue, submitted that these two bills would have done away with the 34% issue if they had been law.

Rep. Neuman brought up the point that if there was a similar but weaker case, the taxpayer might want to be excluded from the other challenge. The taxpayer is put in the situation where he has to read all the legal notices in the newspaper in order to protect his options. He submitted that the taxpayer either had to be excluded or appear and if he didn't know about the suit, he would be out of luck in future actions.

Ms. Feaver said there was a specific provision that any taxpayer that would be significantly affected would be notified specially. Rep. Nordtvedt said that this wasn't a requirement and wanted to know what the safeguard of that provision would be.

Ms. Feaver said big businesses might oppose a small person's suit and unless one made sure that they were on his side in the claim, they might act against him.

Rep. Dozier questioned the constitutionality of the provision on P. 3, line 22.

Rep. Nordtvedt said this clause just said there was a limit to how retroactively one could challenge taxes. Otherwise, people would be challenging their ancestors' taxes. A line has to be drawn someplace.

Rep. Nordtvedt questioned if a taxpayer's maneuvering room to challenge his own situation was being undercut; if he was being forced to be too vigilant. Rep. Neuman said he thought this was the case. He submitted there might be a case where the Court would have to notify every taxpayer in the State that he might be affected.

Rep. Nordtvedt suggested that action on the bill be delayed and a letter be written to the Attorney General asking him for a complete statement on how the taxpayer's position and maneuvering room would be affected by the bill. Rep. Roth moved this. Rep. Dozier made a substitute motion that the bill be TABLED; motion carried unanimously.

SENATE BILL 107 was referred back to. A motion was made to reconsider action; motion carried unanimously.

Rep. Nordtvedt moved that Amendment No. 2 be added to the bill; motion carried, with Rep. Dozier opposed.

Rep. Nordtvedt stated that the bill dealt with a levy and he believed that this was something that equally affected everyone and therefore, Rep. Neuman's problem didn't apply to the bill.

Rep. Williams moved that SENATE BILL 107 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

The meeting was adjourned at 9:50 a.m.

Nordtvedt

Rep. Ken Nordtvedt, Chairman

da

Amendment to Senate Bill 210, Third Reading Copy

1. Page 3, line 9.
Following: line 8
Insert: "(b) The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."

2. Page 3, line 9.
Following: line 8
Strike: "(B)"
Insert: "(c)"
Following: "UNDER"
Strike: "THIS SUBSECTION"
Insert: "subsection (3) of this section"

Patty Sondeen

# ROLL CALL

HOUSE TAXATION COMMITTEE

47th LEGISLATIVE SESSION, 1981

| Name | Date 3/16 | 3/17 | 3/18 | 3/19 | 3/20 | 3/23 | 3/24 | 3/25 | 3/26 | 3/27 | 3/30 | 3/31 | 4/1 | 4/2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| NORDTVEDT, KEN-Chm. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| SIVERTSEN, BOB-V.C. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | - | ✓ | ✓ | - | ✓ | ✓ | ✓ |
| ASAY, TOM | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| BERTELSEN, VERNER | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| BRAND, JOE | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| BURNETT, JIM | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| DEVLIN, GERRY | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| DOZIER, BOB | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| HARP, JOHN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| HARRINGTON, DAN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| HART, MARJORIE | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| NEUMAN, TED | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| OBERG, DANNY | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ROTH, AUDREY | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| SWITZER, DEAN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| UNDERDAL, MELVIN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| VINGER, ORREN | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| WILLIAMS, MEL | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ZABROCKI, CARL | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

HOUSE TAXATION COMMITTEE MEETING MINUTES
April 2, 1981

A meeting of the House Taxation Committee was held on Thursday, April 2, 1981 at 9:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Vinger, who was absent.

EXECUTIVE ACTION was taken on SENATE BILL 483.

Rep. Williams moved some amendments for SENATE BILL 483; see Exhibit "A". Mr. Oppendahl (Legislative Council) went over the amendments. Some of the amendments provide for a sunsetting of the legislation. Regardless of what kind of rental property the property is, it is classified as residential in the amendments. Discussion took place on whether or not a motel still being used partly as a motel, but also being used as apartments would be classed as residential and it was felt that the structure would still be taxed as a motel.

It was explained that Amendment No. 13 incorporated Rep. Huennekens' idea. Discussion took place regarding the amendment. This amendment creates a mechanism for the average person who feels he has been overappraised. What the overall effect would be in Communities such as Anaconda needed to be determined.

Rep. Brand submitted that he would not vote for the amendment because he didn't want someone else to make the decision. Rep. Harrington said he would also vote against the amendment.

Rep. Dozier rose in support of the amendment. He agreed that local government needed to survive, but he submitted that he was representing the people themselves, and on this basis he was in support of the amendment.

Rep. Williams changed his motion to be that all amendments but No. 13 be adopted.

Rep. Dozier wanted to know what the fiscal impact would be on the change making all rental property classified as residential. Rep. Nordvedt said this would be hard to determine. It is conceivable that the tax base could change by a few percentage points in the worst case situations.

The question was called for on the amendments; motion carried with Rep. Brand opposed.

Rep. Williams then moved amendment No. 13; motion carried with Reps. Harrington, Brand, Harp and Neuman opposing.

Rep. Williams then moved that SENATE BILL 483 BE CONCURRED IN AS AMENDED. HJR 52 says that the Legislature has good reason to believe that the discrepancies in the 34% cases are more like 12%, based on the Sales Ratio Study performed by the Dept. of Revenue. This bill is an effort to try to solve the 34% cases. This bill is looking at the present cyclical appraisal and saying that those peoperties will be

separated so that the problems from the last appraisal won't be re-encountered.

Rep. Nordtvedt added that the bill justified for the rest of the reappraisal cycle in law the fact that there are two different manuals and therefore, people have no grounds to challenge their commercial property assessment because a different manual was used.

It is assumed that if the cycle continues, commercial property can be assessed at about 12% higher than the other. SB 483 is putting into reality that commercial property seems to be appraised at about 12% higher than residential property. It doesn't take away the right to appeal; it just gives the Dept. of Revenue the privilege of continuing on the basis they are now, without using that percentage difference as the basis of litigation.

Rep. Brand said he felt the Tax Appeals Board was where the problem was. He submitted that this bill wasn't straightening the problem out. Regarding the statements that the difference would be made is passing a law saying that the people who made the appeals will be agreed with. Rep. Williams said the bill was saying they are partially correct, and only in the past.

Rep. Roth wanted to know what relationship the bill had to HJR 52. Rep. Nordtvedt said the two bills should be talked about side by side, but one dealt with the past and one dealt with the future, and they were not interlocking.

Rep. Underdal wanted to know what would happen if this bill passed and HJR 52 didn't. Rep. Nordtvedt said (1) if this bill isn't passed, hopefully the Dept. of Revenue would across-the-board reduce all commercial property 12% or, (2) If this isn't done, there could be continued litigation for the rest of the cycle. If the bill passes, the 12% overappraisal of commercial property would be legitimatized.

Ms. Ellen Feaver, Dept. of Revenue, confirmed that the Dept. would have the authority to give a blanket 12% reduction if this bill didn't pass. Many schools would be opposed to losing the tax base if the Dept. did the rollback on a blanket basis, however.

Dennis Burr, Montana Taxpayers Association, commented that the Dept. of Revenue could defend the appraisals as they stood.

Rep. Brand wanted to know if a court decision would apply to all cases. Ms. Feaver said the Supreme Court decided that the cases needed to be decided on an individual basis. She submitted that if SB 483 wasn't passed, the 34% cases couldn't be settled. The litigants would be foolish to settle at 12%; they would be eager to continue litigating, to get a bigger settlement.

Dennis Burr said he tried to not tie SB 210 to SB 483 but if SB 210 passed it would apply just as much as SB 483. He didn't see how one could apply to the 3,500 cases presently in litigation and the other couldn't. He explained that SB 210 said that the State Tax Appeals

Board could make a blanket decision like it did in the 34% cases.

Rep. Williams said he saw no conflict between SB 210 and SB 483.

Rep. Oberg said that without passage of SB 483 and with passage of SB 210, there would be a 12% reduction on all property with one court case.

Rep. Dozier suggested that the Committee address SB 483. He submitted that the water was being muddied by discussing other bills.

Rep. Williams said there was a difference between residential and commercial property and they needed to be treated differently to solve the present problem.

Rep. Switzer wanted to know if the dubious situation had slowed the Dept. down in its appraisal process. Ms. Feaver said it had, and they had been litigating and not appraising. The appraisers had to appear at the appeals and this kept them from doing their jobs.

Rep. Bertelsen rose in support of the bill. He submitted that it was unfortunate that this was being done under these conditions. Rep. Nordtvedt explained that the reason for the sunset provision in the bill was because many people didn't believe there should be two separate classes.

Rep. Williams said that this bill might prove that this procedure is the proper one, but the only way to find out was to try and the time was right, because of the desparate situation. He submitted that SB 483 was the best solution that could be come up with. When the bill sunsets, the State will be in a brand new appraisal cycle

Rep. Harp wanted to know why commercial and residential property hadn't been separated when reclassification was done in 1977. Rep. Williams said this was discussed but they couldn't determine what the total impact would be, so they didn't do the division.

The question was then called for on the motion that SB 483 BE CONCURREI IN AS AMENDED; motion carried with Reps. Harp, Devlin, Switzer, Underdal, and Brand opposing.

The meeting was adjourned at 10:00 a.m.

REP. KEN NORDTVEDT, Chairman

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HOUSE TAXATION COMMITTEE MEETING MINUTES
April 10, 1981

A meeting of the House Taxation Committee was held on Friday, April 10, 1981 at 8:00 a.m. in the Livestock Auditorium, Dept. of Justice. All members were present except Reps. Williams, Dozier, Zabrocki, Hart, Brand, and Harrington, who were absent. SENATE BILLS 44 and 283 were heard and EXECUTIVE ACTION was taken on SENATE BILLS 17, 19, 44, 77, 102, 192, 210, 269, 322, 361, and 377 and SENATE JOINT RESOLUTION 10.

SENATE BILL 44, sponsored by Sen. Roger Elliott, was heard. This bill raises the exemption level to $1,000 on the State income tax return. This concept has been disclaimed, but he thought it was reasonable. In 1933 the CPI was 39.2 and in November 1980 it was 256.4. If the exemption was raised proportionately, it would be more than $6,000.

There were no OPPONENTS to SB 44; there were no questions. Sen. Elliott closed, and the hearing on SB 44 was closed.

SENATE BILL 283, also sponsored by Sen. Elliott, was then heard. This bill would remove from property taxation business inventories. The inventory tax has been reduced over the years. In his research, he found that in business practice, this was a report that was grossly mishandled on the local level.

None of Montana's neighbors have an inventory tax and in 36 States the tax has been dropped or it is in the process of being dropped.

One of the main detriments of the tax is that it discourages the location of wholesale centers in Montana. The tax encourages catalog stores. There are many other problems, regarding lack of inventory and unfairness of the tax. People who don't turn over their inventory very often have to pay the same as those who turn the inventory over 8 or 10 times per year. Also, there are seasonal fluctuations and people who don't have inventory at the right time don't have any tax on it.

If the tax is removed, there will be a shift in the burden of taxation because of the loss in the base. At present, 1.7% of the total property tax burden is from inventory, producing $7.2 million in revenue out of $418 million from the property tax as a whole. The effect of this loss will be felt in large Cities. To offset this, it has to be considered that there is an increase in other property taxes every year, which alone per year has never been as low as the loss would be from this bill. The cost associated with enforcement of the tax is high and enforcement is nonproductive, also.

Curt Hansen, Executive Vice President of the Montana Retail Association, then rose in support of the bill. In addition to written testimony, he passed out copies of several letters and petitions which the Association had been asked to present; see

would have made good logic to reduce the rate of assessed to taxable. However, livestock chose instead to take their classified items out of Class 7 and into Class 6 and that had been the problem considering that particular issue.

He said he recognized the problems of the Cities and the Counties and the School Districts. He submitted that his previous comments in that area had been his personal feelings. Their responsibility is to run the Cities, Counties, and School Districts, and to do this, they needed to raise money. Budgets determine mill levy amounts. The fact that the tax base is shrinking points out the fact that mill levies are increasing. He suggested that the Legislature or future ones consider raising the allowable mill limits. He suggested that the Committee look at the size of the budget of the Cities. The problem is the other limits that are put on the governments and not the fact that their tax base is shrinking. He wanted to reinforce the idea that this was only 1.7% of the total tax base. The hearing on SB 283 was then closed.

The Committee then recessed and returned to Room 102 of the State Capitol. The Committee reconvened at 9:50 a.m.; all members were present except Rep. Williams, who was absent.

The Committee went into EXECUTIVE SESSION; Rep. Underdal moved that SENATE BILL 361 BE CONCURRED IN. Rep. Dozier made a substitute motion that the bill BE NOT CONCURRED IN. The question was called for on the substitute motion; motion failed by voice vote. The original motion was then voted on and carried 13 - 3; see roll call vote. Rep. Underdal agreed to carry the bill.

Rep. Oberg then moved that SENATE BILL 377 BE CONCURRED IN. Discussion took place, and the question was called for. Motion carried with Reps. Roth, Zabrocki, Harp and Underdal opposed. Rep. Williams had left a "yes" vote with the Chairman.

SENATE BILL 210 was considered. The argument that an individual's rights might be undercut if another lawsuit was lost was discussed. The language on P. 5, line 24 said that the individual still had rights of appeal on an individual basis. It is only the class action court case that would apply to all people affected. Mr. Oppedahl (Legislative Council) reviewed what the amendment was that the Committee had accepted on March 20; see Exhibit "I."

Rep. Nordtvedt moved that SENATE BILL 210 be taken off the Table and that it BE CONCURRED IN AS AMENDED; motion carried unanimously.

SENATE BILL 322 was considered. Amendments were distributed; see

Taxation 4/10/81
EXHIBIT "I"

Amendment to Senate Bill 210, Third Reading Copy

1. Page 3, ~~line 9.~~
Following: line 8
Insert: "(b) The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."

~~2. Page 3, line 9.~~
~~Following: line 8~~
Strike: "(B)"
Insert: "(c)"
Following: "UNDER"
Strike: "THIS SUBSECTION"
Insert: "subsection (3) of this section"

Patty Sorensen

# ROLL CALL

HOUSE TAXATION COMMITTEE

47th LEGISLATIVE SESSION, 1981

| Name | Date | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| NORDTVEDT, KEN-Chm. | | | | | | | | | | | | | | |
| SIVERTSEN, BOB-V.C. | | | | | | | | | | | | | | |
| ASAY, TOM | | | | | | | | | | | | | | |
| BERTELSEN, VERNER | | | | | | | | | | | | | | |
| BRAND, JOE | | | | | | | | | | | | | | |
| BURNETT, JIM | | | | | | | | | | | | | | |
| DEVLIN, GERRY | | | | | | | | | | | | | | |
| DOZIER, BOB | | | | | | | | | | | | | | |
| HARP, JOHN | | | | | | | | | | | | | | |
| HARRINGTON, DAN | | | | | | | | | | | | | | |
| HART, MARJORIE | | | | | | | | | | | | | | |
| NEUMAN, TED | | | | | | | | | | | | | | |
| OBERG, DANNY | | | | | | | | | | | | | | |
| ROTH, AUDREY | | | | | | | | | | | | | | |
| SWITZER, DEAN | | | | | | | | | | | | | | |
| UNDERDAL, MELVIN | | | | | | | | | | | | | | |
| VINGER, ORREN | | | | | | | | | | | | | | |
| WILLIAMS, MEL | | | | | | | | | | | | | | |
| ZABROCKI, CARL | | | | | | | | | | | | | | |

# STANDING COMMITTEE REPORT

April 16, 19 91

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 210

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES ~~BEFORE THE STATE TAX APPEAL BOARD~~ IN THE DISTRICT COURT; PROVIDING THAT RELIEF GRANTED IN SUCH A PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS; AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 210,
third reading (blue), be amended as follows:

1. Page 3, line 9.
Following: line 8
Strike: "(5)"
Insert: "(5) The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."
Reletter: subsequent subsection
Following: "UNDER" on line 9
Strike: "THIS SUBSECTION"
Insert: "subsection (3) of this section"

AND AS AMENDED
BE CONCURRED IN

DO PASS

Rep. Ken Nordtvedt, Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE BILL NO. 210

INTRODUCED BY SENATE TAXATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES ~~BEFORE THE STATE TAX APPEAL BOARD~~ IN THE DISTRICT COURT; PROVIDING THAT RELIEF GRANTED IN SUCH A PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS; AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. Challenges to assessment rules or procedures. (1) An aggrieved taxpayer may file an original proceeding before the state tax appeal board contesting the validity of a method or procedure of assessment of property adopted or utilized by the department of revenue. Such cases may be brought before the board by a single taxpayer or by a group of taxpayers who are similarly situated.~~

~~(2) If the board finds the challenged rule or procedure improper, it may direct that the assessments at issue be adjusted in accordance with its decision.~~

~~(3) A decision of the board that such a rule or procedure is improper may direct that assessment changes be made for the taxpayer or taxpayers who brought the action, as well as all taxpayers who are similarly situated.~~

NEW SECTION. SECTION 1. CHALLENGE TO ASSESSMENT RULES OR PROCEDURES. AN AGGRIEVED TAXPAYER MAY, IN LIEU OF PROCEEDING UNDER TITLE 15, CHAPTER 15, PART 1, BRING A DECLARATORY JUDGMENT ACTION IN THE DISTRICT COURT SEEKING A DECLARATION THAT A METHOD OR PROCEDURE OF ASSESSMENT OF PROPERTY ADOPTED OR UTILIZED BY THE DEPARTMENT OF REVENUE IS ILLEGAL OR IMPROPER.

NEW SECTION. SECTION 2. PROCEDURE. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), AN ACTION PURSUANT TO [SECTION 1] IS SUBJECT TO THE PROVISIONS OF TITLE 27, CHAPTER 8.

(2) IN LIEU OF THE REQUIREMENT OF 27-8-301, A PARTY BRINGING AN ACTION UNDER [SECTION 1] MAY ELECT TO USE:

(A) THE PROCEDURES AVAILABLE UNDER THE MONTANA RULES OF CIVIL PROCEDURE FOR BRINGING A CLASS ACTION, TITLE 25, CHAPTER 20, RULE 23; OR

(B) THE PROCEDURE PROVIDED FOR IN SUBSECTION (3).

(3) (A) A PARTY BRINGING AN ACTION UNDER [SECTION 1] MAY ELECT TO GIVE NOTICE AS PROVIDED IN THIS SUBSECTION. A PARTY SO ELECTING MUST PUBLISH NOTICE THAT AN ACTION HAS BEEN BROUGHT. THE NOTICE MUST BE PUBLISHED AT LEAST ONCE EACH WEEK FOR 4 CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY WHERE THE ACTION IS COMMENCED AND IN OTHER COUNTIES WITHIN THE JURISDICTION OF THE TAXING AUTHORITY. THE NOTICE SHALL ADVISE EACH SIMILARLY



SB 0210/03

REFERENCE BILL

SITUATED TAXPAYER THAT:

(I) THE COURT WILL EXCLUDE HIM FROM THE CLASS IF HE SO REQUESTS BY A SPECIFIC DATE;

(II) THE JUDGMENT, WHETHER FAVORABLE OR NOT, WILL INCLUDE ALL SIMILARLY SITUATED TAXPAYERS WHO DO NOT REQUEST TO BE EXCLUDED; AND

(III) ANY SIMILARLY SITUATED TAXPAYER WHO DOES NOT REQUEST EXCLUSION MAY, IF HE DESIRES, ENTER AN APPEARANCE.

(B) THE COURT SHALL EXCLUDE A TAXPAYER FROM AN ACTION BROUGHT PURSUANT TO [SECTION1] IF THE PERSON BRINGING THE ACTION PUBLISHES NOTICE AS PROVIDED IN SUBSECTION (3) OF THIS SECTION AND THE TAXPAYER REQUESTS TO BE EXCLUDED BY THE DATE SPECIFIED IN THE NOTICE.

~~(B)~~(C) AN ELECTION TO GIVE NOTICE UNDER ~~THIS SUBSECTION~~ SUBSECTION (3) OF THIS SECTION DOES NOT PREVENT ANY PARTY TO THE ACTION FROM SERVING PROCESS ON OTHER INTERESTED PARTIES.

(4) IN A PROCEEDING UNDER [SECTION 1] ALL ISSUES SHALL BE TRIED BY THE COURT.

NEW SECTION. SECTION 3. REMEDY. (1) IF THE DISTRICT COURT DETERMINES THAT THE CHALLENGED RULE OR PROCEDURE IS IMPROPER IT MAY DIRECT:

(A) THAT THE ASSESSMENT BE CHANGED FOR THE TAXPAYER OR TAXPAYERS WHO BROUGHT THE ACTION AS WELL AS ALL SIMILARLY SITUATED TAXPAYERS; OR





(B) SUCH OTHER REMEDY AS THE COURT CONSIDERS APPROPRIATE.

(2) THE REMEDY DIRECTED BY THE DISTRICT COURT MAY APPLY ONLY TO TAXES IMPOSED DURING OR AFTER THE YEAR THE RULE OR PROCEDURE IS CHALLENGED. THE REMEDY MAY NOT APPLY TO THE APPLICATION OR IMPLEMENTATION OF THE RULE OR PROCEDURE AS IT APPLIES TO TAXES IMPOSED IN YEARS PRIOR TO THE CHALLENGE UNDER [SECTION 1].

NEW SECTION. SECTION 4. TAX TO BE PAID. A TAX WHICH IS BASED ON THE RULE OR PROCEDURE BEING CHALLENGED UNDER [SECTION 1] AND WHICH BECOMES DUE BEFORE THE FINAL DETERMINATION OF THE VALIDITY OF THE RULE OR PROCEDURE MUST BE PAID WHEN DUE AS A CONDITION OF CONTINUING THE ACTION.

Section 5. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, with the members to serve staggered terms of 3 years each. The members of each county tax appeal board shall be residents of the county in which they serve. They shall receive compensation of $25 a day and travel expenses as provided for in 2-18-501 through 2-18-503, as amended, only when the county tax appeal board is in session to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal

board. Travel expenses and compensation shall be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards shall be furnished by the county. All other incidental expenses shall be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board must meet on the third Monday of April in each year to hear protests concerning assessments made by the department of revenue. It must continue in session for that purpose from time to time until the business of hearing protests is disposed of, but not later than 60 days after the department of revenue or its agent:

(a) has mailed notice of classification and appraisal to all property owners as required in 15-7-102; and

(b) has notified the county tax appeal board that classification and appraisal notices have been mailed to all property owners.

(3) In connection with any such appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. The county clerk shall publish a notice to taxpayers, giving the time the county tax appeal board will meet to hear protests concerning assessments and the latest date the county tax appeal board may take applications for such hearings. The notice shall be





published in a newspaper if any is printed in the county or, if none, then in such manner as the board may direct. The notice shall be published at least 7 days prior to the first meeting of the county tax appeal board.

(4) Challenges to a department of revenue rule governing the assessment of property or to an assessment procedure ~~may be brought only before the state tax appeal board~~ SHALL APPLY ONLY TO THE TAXPAYER BRINGING THE CHALLENGE AND MAY NOT APPLY TO ALL SIMILARLY SITUATED TAXPAYERS UNLESS AN ACTION IS BROUGHT IN THE DISTRICT COURT AS PROVIDED IN [SECTIONS 1 THROUGH 4]."

~~Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 15, chapter 2, part 3, and the provisions of Title 15, chapter 2, part 3, apply to section 1.~~

Section 6. Effective date. This act is effective on passage and approval.

-End-

April 10, 1981

HOUSE OF REPRESENTATIVES
COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 210:

1. Page 3, line 9.
Following: line 8
Strike: "(B)"
Insert: "(b)The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."
Reletter: subsequent subsection
Following: "UNDER" on line 9
Strike: "THIS SUBSECTION"
Insert: "subsection (3) of this section"